

1900-063 Chancery Cause: D. H. Mahan vs. Adm of H. P. Johnson &c  
Lee Co.

Weston, Fisher, Robinson

CA-Debt  
T-Property

-Deed



To the Hon. W. T. Miller Judge  
of the Circuit Court of Lee  
County Virginia:

Your orator  
D. H. Graham who humbly  
complaining would respect-  
fully represent that on the 18  
day of February 1893 J. J.  
Fisher executed to him his  
bond for \$250<sup>00</sup>. due & payable  
twelve months after the date  
thereof, and as to said debt  
waived the benefit of his  
homestead exemption, no  
part of which has ever  
been paid, but is yet wholly  
due your orator. The said  
bond is herewith filed as  
part hereof marked "Bond"  
and is prayed to be consid-  
ered herewith as part hereof.

At the time of the execu-  
tion of said bond James J. J.  
Fisher was the owner of a  
tract of land situated in  
said County of Lee whereon  
he then & now resides, and  
which is ample to pay said  
debt. But on the day  
of 189 the said  
Fisher conveyed the same to  
one Hiram P. Johnson, as well



marked 17  
more fully appear by a copy  
of said deed herewith filed  
as part hereof, and is prayed  
to be considered herewith.

Your creditor alleges that  
this conveyance by T. J. Fisher  
to H. P. Johnson, was voluntary  
without consideration and void  
that it was made to hinder  
delay or defraud the creditors  
of said Fisher, and especially  
your creditor in the collection  
of his debt. And this the said  
Johnson & Fisher did not  
deny but openly admitted  
the same.

That long after said convey-  
ance the said H. P. Johnson  
deceased this life interest and  
his estate has been committed  
to W. P. Western Sheriff of this  
County who is now his per-  
sonal representative.

At the time of his death he  
also left the following chil-  
dren, his heirs at law to  
whom said land or the title  
thereto descended viz: Bertha,  
Laura, <sup>alpha</sup> and Mattie Johnson all  
under 21 years of age - He also  
left a widow Florence Johnson  
who if said conveyance would



1 had been genuine would  
2 have been entitled to recover.  
3 But she knows & admits that  
4 said deed was & is fraud-  
5 ulent. The said Fisher has  
6 all the time since said Conveyance  
7 continued to reside upon said  
8 land use occupy & cultivate  
9 it without the payment of  
10 any rents whatever.

11 The object of this Bill therefore  
12 is to have said deed of Con-  
13 veyance from J. J. Fisher set  
14 aside held void & annulled for  
15 want as to your creditors  
16 debt. And so much thereof  
17 as may be necessary said  
18 will pay the same attendant  
19 costs. To affect which he  
20 prays that J. J. Fisher, W. O.  
21 Western Sheriff & as such administrator  
22 of Hiram Johnson's estate, Florence  
23 Johnson, Bertha Johnson, and Mattie  
24 Johnson <sup>Alpha Johnson</sup> be made parties de-  
25 fendant to this bill & answer  
26 the same, but they need not do  
27 so upon oath that being waived  
28 that a guardian ad litem be  
29 appointed to answer & defend  
30 the interest of said infants  
31 And on a hearing said  
32 deed be set aside annulled for



1 brought & held voice. That said  
2 land or so much thereof as  
3 may be necessary be sold &  
4 the proceeds after the payment  
5 of costs be applied to your  
6 Exors, debt. And for all  
7 other further and general  
8 relief. May your wisdom  
9 &c.

10 Obedient Son,  
11 for self.



Twelve Months after  
date I Bind my self  
To Pay S. H. Mohan  
Two hundred and fifty  
Eight dollars for value received  
of him I have by Man-  
all Harvested Loans as to  
this Debt witness my  
Hand and Seal this  
February 18<sup>th</sup> 1893

T. J. [Signature] Seal

"Bend"



D. H. Mahan

23 Beechey

W. P. Weston adm  
it al



V I R G I N I A ,

Circuit Court for Lee County:

To the Honorable W.T. Miller, Judge of the said Court:

The joint and separate answer of Bertha Johnson, Laura Johnson ~~and~~ *and Alpha Johnson* and Mattie Johnson, infants under the age of twenty-one years, by L.T. Hyatt, their guardian ad litem, assigned to defend them in this suit, to a bill of complaint exhibited against them and others in said Court by D.H. Mahon.

Respondents, reserving to themselves the benefit of all just exceptions to the said bill, for answer thereto, or to so much thereof as they are advised that it is material they should answer, by their said guardian ad litem, answer and say:

That they are infants of tender years, and by reason of their infancy, are incapable of understanding, or taking care of their rights and interests. They, therefore, by their said guardian, commend themselves and their rights and interests to the protection of the court, and pray that no decree may be pronounced which will tend to their prejudice.

Ans having fully answered, the said respondents pray to be hence dismissed with their reasonable costs in this behalf expended and they will ever pray &c.

*L. T. Hyatt*, Guardian ad litem for  
Bertha Johnson, Laura Johnson ~~and~~ *alpha*  
*Johnson* and Mattie Johnson, infants.

Virginia, County of Lee, to wit:

This day personally appeared before me, A.B. Munsey, Clerk of the Circuit Court for said County, *L. T. Hyatt*, Guardian ad litem for Bertha Johnson, Laura Johnson ~~and~~ *alpha Johnson* and Mattie Johnson, whose answer



is above written, and made oath that the statements contained in the said answer, so far as made of his own knowledge, are true; and so far as made from knowledge or information derived from others, he believes to be true.

Given under my hand this the 23rd day of September, 1898.

AB Munsey, Clerk.



D. H. Mahon,  
vs  $\frac{3}{2}$  In Chy -  
W. P. Weston, Admr.  
vs. et als.

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Answer of L. S.  
Hyatt, Guardian ad  
Litem for Bertha  
Johnson, Laura  
Johnson and Mattie  
Johnson, infants.

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Filed September 23rd 1898  
A. B. Munsey Clerk

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Fee \$5-00



To the Honorable W.T. Miller, Judge of the Circuit

Court of Lee County, Virginia:

The separate <sup>demurrer and</sup> answer of Florence Robinson, formerly Florence Johnson, late widow of Hiram P. Johnson, to a bill exhibited against her and others by D.H. Mahan.

Respondant is advised that said bill is not sufficient in law to call upon her to answer in this honorable court, and she demurs to the same and prays judgment of her said demurrer &c.

And not waiving said demurrer but relying and insisting thereon, should other and further answer be required of her, answering she says:

That personally, she knows nothing whatever of the execution by T.J. Fisher of the bond in the complainant's bill mentioned, and she likewise knows nothing of the alleged debt claimed to be evidenced by said bond and she neither admits or denies the same but calls for full and complete proof of said indebtedness, the time contracted, and what contracted for,

Respondent has been informed, and she believes truly, that no such debt, as that evidenced by said bond, was ever due and owing by the said Fisher to the said Mahan; that said bond is a mere subterfuge written and prepared long after its date, collusively signed up and made by the said Fisher for the fraudulent purpose of prosecuting a suit to set aside the deed made by Fisher and wife to this respondent's late husband, H.P. Johnson, and that if successful in said suit that the said Fisher and Mahan are to share in the proceeds of their fraudulent and collusive undertaking.

Respondent further alleges that at the date when said bond pretends to have been executed that the said D.H. Mahan was a very poor man, that he has so remained poor ever since, that he never in his life had property of any kind for sale of the value of \$258.00 or even half that amount.

Respondent says that it is true, that on the 16th day of October, 1893, that the said T.J. Fisher did convey to her late husband H.P. Johnson the two tracts of land owned by him, but she denies that said conveyance was voluntary, without consideration and void; she denies that



said deed was made to hinder, delay and defraud the creditors of the ~~said~~ said Fisher, and especially the complainant in the collection of his or their debts, and she denies that her husband either openly or in any other way ever at any time admitted that said deed was made for a fraudulent purpose, but on the contrary thereof she alleges that said deed was made in good faith, for a full and valuable consideration, every cent of which was fully paid at the time of said transaction.

It is true that after said conveyance the said Hiram P. Johnson departed this life intestate. This, to her, sad event, occurred on the 31<sup>st</sup> day of October, 1894, more than one year after the date of said deed, and more than nine months after said pretended note appears to have become due. It is true that her husband left surviving him four small children, all daughters, and correctly set out in the bill. She supposes it is true that the estate of her said husband has been committed to ~~the~~ W.P. Weston, Sheriff of this County, though why so done, she is unable to state as her husband died in the state of Tennessee where he has an administrator and where all of his personal estate was, or at least the material part thereof. She says it is true that she is entitled to dower in the lands described in said bill, and she most emphatically denies that she ever admitted that said deed was fraudulent, as a matter of fact, she personally knows nothing of said transaction. She was not present when said trade was made, or when said deed was executed, and all the knowledge she has in reference to it is a statement made to her by her late husband, who told her that said lands were his, that he had bought them, paid for them, that they had been conveyed to him and that his deed was duly recorded.

She denies that the said Fisher has all the time since said conveyance continued to reside upon said land. It is true however that he was residing on one of said tracts at the time of the death of her husband; that very shortly thereafter he moved off of said land and surrendered the possession thereof. He remained off of said land something more than a year and after this scheme, concocted as she believes for the purpose of beating her and her children out this land, and as a part of said plan, he moved back upon it. At that time she was living in



Tennessee, there was no administrator of her husband's estate in Virginia, neither was there a guardian of her children in this state and under these conditions, with no person to look after said matter the said ~~the~~ Fisher by mere brute force, took and held and is still holding possession of said land.~~and~~

As a further evidence of said fraud, now attempted to be perpetrated upon herself and her children, your respondent is informed and she alleges it to be true that the said D.H. Mahan has never at any time given in said note, to the commissioner of the revenue and had the same listed for taxation as she is advised it was his duty to do if said note had been genuine and the debt evidenced thereby due.

Your respondent is advised that the failure of the said Mahan to list said note for taxation with the commissioner of the revenue absolutely bars him of the right to recover the same either by action at law or suit in equity in any of the Courts of this Commonwealth until said note has been reported for assessment each year, and the tax thereon paid with an addition of fifty per centum of the amount of said unpaid taxes, and she craves the benefit of said wise provision of law as a defence to her in this suit. And now having answered said bill as fully as she is advised it is material to answer the same she prays to be hence dismissed with her costs.

C. T. Duncanson  
for deft.



Flower Robinson  
late Johnson

ad 3/4 August

D. H. Mahan

Filed in open Court  
and by leave thereof  
Nov 19th 1898  
A. B. Muncy Clerk



D.H.Mahan

Vs.

W.P.Weston Administrator,

On morion of the plaintiff this cause is dismissed at his cost;  
and the same is accordingly stricken from the docket.



D H Mohau

vs. Z Nieru

H. P. Westou Aug 16

Entered on C. C. B. P. 458.  
Enter this order

H A W Stuer  
Nov 15<sup>th</sup> 1900.



D. H. Mahan

v

~~James W. Weston~~ actor.

On the motion of the defendant  
Florence Robinson, late Johnson  
leave is granted her to file her  
answer & the press replies gener-  
ally; and the cause is continued



D. H. Mahan

W. Beece

W. P. Westcott  
et al

Nov. 7. 1898

Enter this  
Nov. 17. 1898  
H. J. M.



This Deed made this the 16<sup>th</sup> Day of October  
in the year of Our Lord 1893 by and between  
T. J. Fisher and Susan his wife of the first part  
as Vendors and H. P. Johnson of the second  
part as Vendee it is covenanted that for and in  
consideration of the sum of Eight hundred  
& Fifty dollars in hand paid the receipt of  
which is hereby acknowledged the said party  
of the first part doth sell Bargain convey and  
Deliver to the said party of the second part  
all of two certain tracts or parcels of land  
situate in Lee County Virginia and on both  
sides of Newmans ridge to wit: One tract at  
the flower Gap containing one hundred and  
twenty three acres by survey and bounded as  
follows, on the south by Anderson Mercur  
and Brownlow Brotherton on the East by E  
Gordon and Granvill Johnson on the North  
by Fielder Gomis heirs and James Fishers.  
The second tract containing about sixty three  
acres and bounded as follows on the East by  
Jackson Fisher on the west by Fielder Gomis  
heirs; on the North Andrew Lawson and  
on the South by Granvill Johnson and for  
a more specific description of tract of said  
reference is hereby given to former title  
papers the last named parcel being our  
entire interest we had in our father Henry  
Fishers estate and our interest in an entry  
we made with John A Stapleton William  
Avery and others and lies on the north side



of Newmans Ridge. To have and to hold the same  
in fee simple with all things pertaining thereto  
both seen and unseen and we the said party of the  
first part for ourselves our heirs and assigns  
covenant with the said party of the second part  
that <sup>we</sup> are lawfully seized of the premises above  
described and that we have a good and defensible  
right to sell and convey and we will warrant  
generally the title conveyed to the said party  
of the second part to him his heirs or assigns  
forever. Witness our signatures and seals Day  
and Date above written.

L. J. <sup>his</sup> Fisher Seal  
Susan <sup>mark</sup> Fisher Seal  
<sup>mark</sup>

State of Va }  
Lee County }

I Jno. M. Tate a Notary Public  
of said County and State do certify that L. J.  
Fisher and Susan Fisher the wife of said  
L. J. Fisher both personally came before me  
in my county and acknowledged their  
signatures to the above Deed of conveyance  
bearing Date of October the 16<sup>th</sup> 1893 as their  
free act and Deed for the purposes set  
forth in said instrument. Given under my  
official signature at office in Lee County  
Va Oct. the 16<sup>th</sup> 1893.

Jno M. Tate N. P.  
Virginia Lee County to wit,  
In the Office of the Clerk of the said County



the 18<sup>th</sup> Day of October 1893 this deed  
was presented and together with the certifi-  
cate thereto annexed was admitted to record.  
Teste S. V. F. Richmond Clerk

A Copy

Teste, S. V. F. Richmond Clerk  
by A. B. Muncy D. C.



L. J. Fisher & wife  
Lo Copy of Deed  
W. P. Johnson

Exhibit "A"

Clerk for Copy 80



Farmville Va for 2nd 1898  
Mr. James Johnson + John G. Bedson  
I understand you have been  
chased down. Thinker from V.

Mahan & Fisher died on land at  
93 Johnson & Fisher died, that is  
is one of the tracts -

Shortly after the death of Johnson he moved  
off, and staid off a year or more and  
then moved back. Shortly after the death  
of my husband Fisher came to me and  
asked me to give him the land I refused

Hiram was sick <sup>1st</sup> ~~two~~ weeks before his  
death, we went at Flower Gap, and  
two weeks at home at Staples Ford dis-  
tant about 2 miles from Fisher  
Fisher never came to see him,  
H.P.J. died Oct 31st 1894



The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

<sup>again</sup>  
WE COMMAND YOU, that you summon W. P. Weston Admr of the estate of  
H. P. Johnson decd, T. J. Fisher, Florence Johnson, Bertha Johnson  
Laura Johnson Mattie Johnson & Alpha Johnson the last  
four are infants under the age of 21 years

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held  
for the said Court on the 3rd Monday in October, 1898, to answer a bill in  
chancery, exhibited against them in our said court by

D. H. Mahan

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,  
the 4th day of October 1898, and in the 123rd year of the Commonwealth.

A B Munsey Clerk



*J. H. Mahan*  
*alias*

vs.

SUBPOENA

IN CHANCERY.

*W. P. Weston, Admr et al*

*Prudemore & Sewell* p. q.

To *2nd October* Rules.

*1898* Circuit Court.

Executed on W. P.  
 Weston by delivering  
 to him a true copy of  
 the within, and more  
 or less 17-1898. and by de-  
 livering a copy on the  
 same day to *James J.*  
*Frisher* and on all the  
 others by going to their  
 places of abode, but they  
 were not found there being at  
 home. Took a copy  
 from the dwelling house  
 of *Oct 12, 1898* for *W. P. Weston*



The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, that you summon *W. P. Weston* Admr of the estate  
of *H. P. Johnson* dead *L. J. Fisher*, *Florence Johnson*  
*Bertha Johnson*, *Laura Johnson* & *Mattie Johnson* the  
last three are infants under the age of 21 years  
to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held  
for the said Court on the *1st* Monday in *October*, 1898, to answer a bill in  
chancery, exhibited against *them* in our said court by  
*D. H. Mahan*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,  
the *21st* day of *September* 1898, and in the *123rd* year of the Commonwealth.

A Copy

*A. B. Munsey* Clerk  
Test: *A. B. Munsey* Clerk



*vs.*

}

SUBPOENA  
IN CHANCERY.

*p. q.*

*To* ..... *Rules.*

*Court.*



The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, that you summon W.P. Weston Admr of the estate  
of W.P. Johnson decd. T. J. Fisher, Florence Johnson  
Bertha Johnson, Laura Johnson & Mattie Johnson  
the last three are infants under the age of 21 years  
to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held  
for the said Court on the 15<sup>th</sup> Monday in October, 1898, to answer a bill in  
chancery, exhibited against them in our said court by  
D H Mahan

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,  
the 21<sup>st</sup> day of September 1898, and in the 123<sup>rd</sup> year of the Commonwealth.

A Copy

A B Munsey Clerk

Teste: A B Munsey Clerk



The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, that you summon *W. P. Weston Admin of the estate*  
*of H. P. Johnson decd T. J. Fisher, Florence Johnson*  
*Bertha Johnson Laura Johnson Mattie Johnson the*  
*last three are infants under the age of 21 years*  
to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held  
for the said Court on the *1st* Monday in *October*, 1898, to answer a bill in  
chancery, exhibited against *them* in our said court by  
*D. H. Mahan*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,  
the *21st* day of *September*, 1898, and in the *123rd* year of the Commonwealth.

*A Copy*

*A. B. Munsey Clerk*

*Teste: A. B. Munsey Clerk*



The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, that you summon *W. P. Weston* Admr of the estate  
of *H. P. Johnson* decd. *L. J. Fisher* *Florence Johnson*  
*Bertha Johnson* *Laura Johnson*, & *Mattie Johnson*  
the last <sup>three</sup> are infants under the age of 21 years  
to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held  
for the said Court on the *1<sup>st</sup>* Monday in *September*, 1898, to answer a bill in  
chancery, exhibited against *them* in our said court by  
*D. H. Mahan*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,  
the *21<sup>st</sup>* day of *September* 1898, and in the *123<sup>rd</sup>* year of the Commonwealth.

*A Copy*

*A. B. Munsey* Clerk

*Teste: A. B. Munsey* Clerk



# The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, that you summon *W. P. Weston, Admr of the estate*  
*of H. P. Johnson, decd. T. J. Fisher, Florence Johnson, Bertha*  
*Johnson, Laura Johnson & Mattie Johnson the last three are*  
*infants under the age of 21 years*  
to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held  
for the said Court on the *1st* Monday in *October*, 1898, to answer a bill in  
chancery, exhibited against *them* in our said court by  
*D. H. Mahan*

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house,  
the *21st* day of *September* 1898, and in the *123rd* year of the Commonwealth.

*A. B. Munsey Clerk*



D H Mahan

vs. }

SUBPOENA  
IN CHANCERY.

W. P. Weston, Admr et al

Pridemore &amp; Sewell p. q.

To 1st October Rules.

Circuit Court.

Executed in part on  
Sept 26<sup>th</sup> 1898. by  
delivering a true copy  
hereof to the within  
named W. P. Weston

Jas. M. Weston, D.S.  
for W. P. Weston, S.C.

not executed not

relieved in time

Oct 3 1898

Evon Bledsoe  
for W. P. Weston S.C.



D. H. Mahan

vs Bill Chy.

W. P. Weston adua et al

1898 1st Oct rules Spa not  
2d. & alias awarded & Contd  
" 2nd Oct rules alias Spa 4d  
& ans G. A. L. filed & Det  
" 1st Nov rules taken the  
last Monday in Oct & N  
Conf & Cause set for  
hearing.